

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BRIAN VODICKA AND STEVE AUBREY,
Plaintiffs,

v.

CIVIL ACTION NO.
A-10-CA-076-SS

PETER E. BARLIN, GREGORY H. LAHR,
SANDRA G. GUNN, NORTH AMERICAN
TITLE COMPANY, LESLEY KAREN
WILLIAMS, JEFFREY TURNER and VITALY
ZARETSKY,
Defendants.

CHESTER D. TUTOR,
Plaintiff,

v.

CIVIL ACTION NO.
1:12-cv-503-SS

NORTH AMERICAN TITLE COMPANY,
LESLEY KAREN WILLIAMS, JEFF
TURNER, and VITALY ZARETSKY
Defendants.

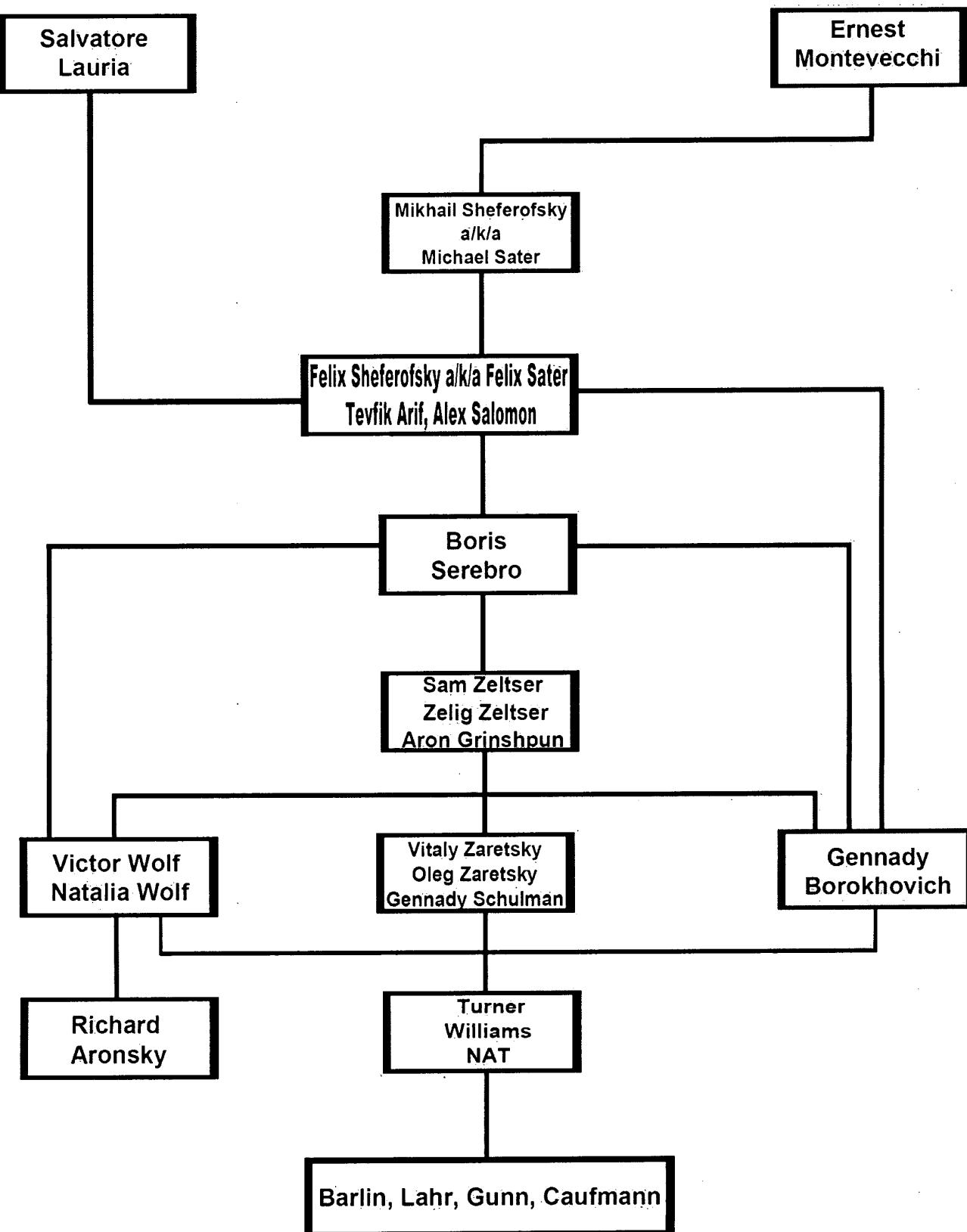
BRIAN VODICKA and STEVEN AUBREY,
Plaintiffs,

v.

CIVIL ACTION NO.
1:12-cv-00768-SS

NORTH AMERICAN TITLE COMPANY,
LESLEY KAREN WILLIAMS, JEFF
TURNER, and VITALY ZARETSKY
Defendants.

PLAINTIFFS' APPENDIX TO FIRST CONSOLIDATED AMENDED COMPLAINT



Co-Conspirators Who Orchestrated and Carried Out the Scheme.

In addition to Defendants, numerous other entities and individuals participated in the myriad of transactions with Defendants and assisted them in carrying out the Scheme. The following entities and individuals materially participated in one or more of the transactions described in the Complaint:

1. AR Homes LP (“**AR Homes**”) was a limited partnership created on or about April 7, 2003. It is comprised of other entities controlled by Mort Topfer, Alan Topfer, and Richard Topfer, specifically Castletop Capital Equities LP and Castletop Capital Management LP. AR Homes LP became a 10% limited partner of J&T on or about August 28, 2006, when J&T acquired title to the 367-acre tract of the Wildhorse Ranch.

2. ASC Management is one of Barlin’s entities operating out of 3724 Jefferson Street, Suite 306, Austin, Texas. Defendant Lahr, as well as Barlin’s in-house attorney Steve Bowers, also used this address as their business addresses in Travis County real property records.

3. Asset Interfunding LP (“**AIF**”) was created on or about November 16, 2006, and was owned by Doug Kadisson (“**Kadisson**”) and Charles Nichols (“**Nichols**”), who are Austin venture capitalist and real estate developers. AIF was also a 50% member of J-Tail, LLC (“**J-Tail**”), the subsequent owner of the 414-acre tract in Wildhorse Ranch. It also held the undisclosed option to acquire the 40-acre corner tract within the 414-acre tract at a preferential price. Kadisson and Nichols were also members of the Wildhorse Investors Ltd. selling group. AIF was an alter ego of Minerva Ltd.

4. Bayrock Group LLC (“**Bayrock**”). The Experian credit report of Borokhovich, included in Independent Bank of Manor’s (“**Independent Bank**”) loan file, indicates his employer was Bayrock , 725 5th Ave., 24th floor, New York, New York (See *Sealed Exhibit 1*).

Bayrock was a NYC “developer” involved in many Donald Trump projects that resulted in multiple lawsuits in multiple jurisdictions including Florida, New York, and Arizona. According to affidavits and deposition testimony in the Bernstein Case, together with an affidavit executed by Bayrock’s Chief Financial Officer, Jody Kris, in another litigation styled, *Civil Action No. 4154-VCS; Jody Kriss v. Bayrock Group LLC, RIF International Group, Inc., Tevfik Arif, 2027 Emmons Ave LLC, Felix Satter a/k/a Felix Sater, Alex Salomon & Co. et. al; In the Delaware Chancery Court*, Bayrock was owned and controlled by Tevfik Arif and Felix Sater. On July 10, 2006, a \$195 million offer to purchase the Frost Bank Tower in Austin, Texas was made by Sky Development, naming Bayrock as one of the principals involved.

5. Blue Bluff Ventures LLC (“**Blue Bluff**”) was a company formed on or about August 24, 2006 by Turner, and he was its sole member. Blue Bluff became the general partner of J&T on August 24, 2006.

6. Boris Serebro (“**Serebro**”) was the attorney for Wolf, Zaretsky, Borokhovich, and the Zeltser Brothers. From his New York City office, Serebro coordinated and directed Hemphill in the layering of entities that were used in the Scheme. He also provided oversight and approval in further participation of the Scheme.

7. Broadview LLC (“**Broadview**”) was an entity formed by Zaretsky, on behalf of Sky Development and Wolf to negotiate a \$62 million purchase contract dated February 13, 2005 for the Greek Isles Hotel and Casino (formerly known as the Debbie Reynolds Casino) in Las Vegas, Nevada (the “**Las Vegas Casino**”).

8. Cactus Capital LP (“**Cactus**”) was an entity also created on or about August 27, 2006, by Zaretsky and Borokhovich. It was a limited partner in J&T and the conduit for various concealed participants, including the Zeltser Brothers, Wolf and Paul Farenstein (a Brighton

Beach Brooklyn, New York pharmacist and a source of money enabling J&T to acquire the 367-acre tract in Wildhorse Ranch).

9. Creative Financial Solutions (“CFS”) is a mortgage brokerage company owned by Gunn and Jeannie Koons. Koons is currently under indictment in the Republic of Nigeria for real estate fraud. CFS created two syndicated loans to J&T. CFS acted as the “payment agent” for CFS Loan No. 1 and CFS Loan No. 2.

10. Felix Sater was one of Borokhovich’s bosses in Bayrock. He is a convicted felon of federal criminal racketeering and held close ties to members of the Genovese, Bonanno and Gambino New York City crime families of La Cosa Nostra.

11. Fidelity Title is a national title company that handled the original purchase contract in Wildhorse Ranch and closed the 367-acre tract and the 200-acre tract, which was a “flip.” Fidelity claimed on May 14, 2012 in a Destroyed Business Records Affidavit in this same proceeding to have lost all records pertaining to any real estate closings involving the Wildhorse Ranch. However, on March 27, 2013, Fidelity tendered 6,281 records despite having previously represented that no responsive documents existed.

12. Frontier Acquisitions (“Frontier”) was a Texas company formed by Zaretsky and Borokhovich on November 7, 2006. Frontier operated, however, from the same Brooklyn drop box (P.O. Box 35-1012) as the other Texas shell entities used in Wildhorse Ranch¹. Borokhovich

¹ These shell entities include, but are not limited to, the following: (1) Frontier Acquisitions, LLC; (2) Waterfall Gallery of Austin GP, LLC; (3) Manor North East 167 GP, LLC; (4) Manor North East 167 Junior GP, LLC; (5) Manor 414 GP, LLC; (6) Heart of Manor GP, LLC; (7) Heart of Manor Junior GP, LLC; (8) Aicon Resort GP, LLC; (9) Southwest Stingray Management Group, LLC; (10) Flying Teal GP, LLC; (11) Era Generation GP, LLC; (12) Dry Creek Estates GP, LLC; (13) Pearce Blue Moon GP, LLC; and (14) Mesquite Haven GP, LLC. In addition, the Russian principals used the following entities, which all share the same mailing address of 1709 Avenue M, Brooklyn, New York 11229, which is the address of Paul Louis Designs, a gold and jewelry store: (1) Waterfall Gallery of Austin, LP; (2) Manor North East 167, LP; (3) Manor North East 167 Junior, LP; (4) Heart of Manor, LP; (5) Manor 884, LP; (6) Manor 884 Junior, LP; (7) Manor 414, LP; (8) Aicon Resort, LP; (9) Southwest Stingray, LP; (10) Flying Teal, LP; (11) Era Generation, LP; (12) Dry Creek Estates, LP; (13) Pearce Blue Moon, LP; and (14) Mesquite Haven, LP.

used this same post office box for his personal bank account at Citibank in Brooklyn, NY. Citibank's records of Frontier reflect that Borokhovich and Zaretsky opened this bank account in Brooklyn on November 10, 2006, three days after the company was formed in Texas. From November 10, 2006, until July 3, 2007, funds totaling \$9,219,668.68 were moved into and out of this account. However, during this time Frontier never held legal or equitable title to any real or personal property within the State of Texas.

13. J&T Development Group LP ("J&T") was a limited partnership formed on April 24, 2006, by Defendant Hemphill, at the direction of Serebro. J&T's Certificate of Limited Partnership filed with the Texas Secretary of State reflected Turner as the sole partner. However, Serebro's records identify Wolf, Zaretsky, Borokhovich, and Turner as the true original members of J&T. Moreover, Hemphill's IOLTA accounting records also reflect the Zeltser Brothers as members of J&T. Moreover, Fidelity Title Company's records reflect Faerstein as a concealed member. On August 24, 2006, Blue Bluff became the designated general partner of J&T. Four days later, an Amended Partnership Agreement was created reflecting AR Homes and Cactus as the only designated limited partners of J&T.

14. J-Tail, LLC ("J-Tail") was a Texas company created on or about November 21, 2006, at the direction of Zaretsky, Borokhovich, and John Lloyd ("Lloyd"), Kadisson and Nichols. J&T was its managing member (through Blue Bluff). Its members were AIF and J&T.

15. Lisa Caufmann ("Caufmann") is a mortgage broker who worked with CFS. Caufmann promoted CFS loans in Wildhorse Ranch to Tutor. She and Gunn fabricated a "Licensed Loan Agent in the State of Texas" designation to legitimize her alleged brokerage services, when in fact, she held no brokerage licenses at all.

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16. Manor North East 167, LP was a limited partnership formed on or about September 24, 2006, by Zaretsky, Borokhovich, and the Zeltser Brothers. It acted both as seller and buyer/borrower in transactions involving the 67 acres of Wildhorse Ranch.

17. Mesquite Haven, LP was an entity formed by Borokhovich on September 20, 2006, which was used to acquire a 362 acre tract in the Wolf Crossing tract in Del Valle instead of Wolf Crossing, LP, owned by Wolf. Its general partner was Mesquite Haven GP LLC, also owned by Zaretsky and Borokhovich and had the same Brooklyn drop box at P.O. Box 35-1012.

18. Minerva Ltd. (“**Minerva**”), upon information and belief, was an entity created by Lloyd, Kadisson, Nichols, and Peter Dwyer (“**Dwyer**”) on or about April 21, 1998. Its limited partners included Mopac Financial, Inc. and Kadisson. According to NAT’s interrogatory answers, Minerva purportedly held a lien on a 170-acre tract located at 12411 Jacobson Rd., Manor, Texas. The original purchaser of 12411 Jacobson Road was Victor Wolf’s Sky Development Group; as indicated on the Farm and Ranch Contract dated February 4, 2006 of Dennis and Diane Jasek of 170.993 acres in the T. Ellison Survey (Hemphill 000345-000365). However, no such lien is recorded in the Travis County Real Property records. Minerva was paid \$1.1 million by cashier’s check from NAT on June 21, 2007. However, this check is not associated with any real estate closing transaction and is therefore a violation of the Texas Insurance Code. According to Zaretsky’s testimony in the J-Tail LLC federal bankruptcy proceedings, this payment was for the transfer of Asset Interfunding LP’s ownership and transfer of the option to acquire the 40-acre corner tract within the 414-acre tract of Wildhorse Ranch.

19. Oleg Zaretsky is Vitaly Zaretsky’s father and resides in New Jersey. He and Zaretsky promoted the Wildhorse Ranch and was also a partner in (i) Zaretsky & Sons, LP; (ii) Sky Development; and (iii) the Texas Sky Agreement.

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20. Salomon and Company, PC is an accounting firm in East Rockaway, New York, which is owned and controlled by Salomon. He, along with Serebro, directed Hemphill, to form the various entities used in the Scheme. Salomon received the Citibank, Brooklyn, New York Sky Group of Texas and Frontier bank statements for Wolf, Zaretsky, and Borokhovich, together with outsized compensation from the accounts. Salomon is also currently being sued for Criminal Racketeering in federal court in the matter styled: *Cause Number 10-CV-3959 (NRB); Jody Kris and Michael Ejekam vs. Bayrock Group LLC, et. al.; In the Eastern District of New York.*

21. Sky Group of Texas, LLC is an inactive Texas limited liability company formed on November 29, 2005, by Hemphill. The Secretary of State records lists only three members: Wolf, Borokhovich, and Zaretsky. However, the Texas Sky Agreement reflects that this entity was actually comprised of three different members: (i) Sky Development; (ii) Genbor Development Management c/o Salomon and Co.; and (iii) Zaretsky and Sons, LP. This entity further operated from the home at 14515 Bois D'Arc Lane in Manor, Texas, which was also the purported "residence" of Zaretsky. Although it never held any title to any of the various tracts of real property in Del Valle, Manor, or Wildhorse, Sky Group of Texas, LLC was used to paper fake land contracts, some of which were forged. It was further listed as the initial "purchaser" on land contracts for the same 414-acre and 100-acre tracts in Wildhorse Ranch that form the basis of Plaintiffs' damages set forth herein. Sky Group of Texas, LLC was also the initial loan applicant for a loan to IBC Bank in the amount of \$8,224,594, and the loan from Independent Bank in the amount of \$3,250,000. Sky Group of Texas used the address 11851 NE 29th Ave., Suite 1005, Aventura, Florida on promotional materials provided to Alexandra Krot and also to Fort Worth National Bank to procure a \$2 million loan to J&T. This was a fictitious address.

22. Sky Development was a Florida entity owned and controlled by the Wolfs. Detailed on page one of a United States Grand Jury indictment, Sky Development was the umbrella organization for the nation-wide real estate land fraud operating from 3137 Northeast 163rd Street, North Miami Beach, Florida. Sky Development included Sky Group Realty, detailed in the indictment, and referenced on internal correspondence from Salomon to Hemphill. Sky Development membership included the Wolfs, Zaretsky, Oleg Zaretsky, and Borokhovich, as memorialized in the Texas Sky Agreement executed by Zaretsky and Borokhovich. Sky Development promoted the same tracts of land in Texas and used them to lure its victims, including Plaintiffs, which formed the Scheme described herein. Sky Development operated in Texas primarily through its alter ego, Sky Group of Texas, LLC. Sky Development was documented on: (1) at least one local property contract; (2) marketing materials discovered in the records of Independent Bank; and (3) agreements involving the Broadway Casino. On September 7, 2010, the Fifth Judicial Circuit Court, Citrus County, Florida, entered a Final Judgment, based on a jury verdict, determining Sky Development constituted a criminal enterprise under Florida state law.² Previously, the Second Judicial Circuit Court, Leon County, Florida had enjoined Sky Development for violations of Florida statutes involving land sales.³

23. Tevfik Arif was a 50% controlling member of Bayrock and owned property jointly with Borokhovich in Brooklyn, New York. He was one of Borokhovich's two bosses along with Felix Sater. In October 2010, Turkish police arrested Arif in a sting operation for operating an Eastern European prostitution ring.

² Case No. 2007-CA-000321; *Attorney's Title Insurance Fund, Inc. v. Benjamin Schulman*; In the Fifth Judicial Circuit Court, Citrus County, Florida.

³ Case No. 07CA1568, DBR Case No. 2005035866; *Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes v. Sky Development Group, LLC*; In the Second Judicial Circuit, Leon County, Florida.

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24. Three Star Capital, LLC (“**Three Star**”) was created by the Zeltser Brothers on or about April 25, 2006. It operates from 463 7th Ave., New York, New York, and 4320 Park Ave., Bronx, New York, under the name “S&V Restaurant Equipment Mfg.”

25. Vega World Supply is a warehouse fronting as a building and tile materials distribution company and operating from Newark, New Jersey, and the Ukraine. It is owned and/or controlled by Oleg Zaretsky. \$86,783 of the First State Bank Central Texas \$2.5 million mortgage loan proceeds was diverted by NAT through a wire transfer to Vega World Supply. Kenneth and Natalie of Virginia, lenders in the CFS Loan No. 1, were instructed by Lahr on January 17, 2007 to wire their \$244,500 of loan proceeds directly to Vega World Supply’s PNC Bank in Tenafly, New Jersey. These records and communications were destroyed by Lahr.

26. Wolf is a federally indicted fugitive who is believed to have fled to Russia to avoid prosecution for his participation in his land fraud scheme that involved multiple properties in Florida and Texas (*see Exhibit “B”*). In Florida, Wolf operated under the name of Sky Development Group. In mid-2005, he moved his operation to Texas, specifically to the Wildhorse Ranch, and began operating under the name, Sky Group of Texas, LLC or variations thereof (Sky Station, Sky Line, Sky Residential, Sky Village, and Wolf Crossing, among others). One year prior, in 2004, Wolf’s partner, Zaretsky, went to Manor, Texas, to collect a debt from Richard King (“**King**”), who lived at 14515 Bois D’Arc Lane in Manor. Soon thereafter, Zaretsky became the title owner of this residence as well as other acreage owned by King in Manor. Sky Group of Texas, LLC, Wolf, Zaretsky, and Borokhovich then used this address as their principal place of business in Texas.

27. Waterfall Gallery of Austin, LP (“**Waterfall Gallery**”) was a limited partnership formed by Serebro on September 21, 2006, to acquire ownership of the 200-acre tract in

Wildhorse Ranch. It was comprised of Zaretsky, Borokhovich, and the Zeltser brothers. It acted both as seller and buyer/borrower in the October 6, 2006 transaction involving the 11 million loan. The 200 acres was originally promoted to Alexandra Krot (“**Krot**”) by the Wolfs, both Zaretskys and Borokhovich.. Its general partner, Waterfall Gallery of Austin GP, LLC used two addresses; 1709 Avenue M, Brooklyn, New York, and the Brighton Beach drop box used by both Zaretsky and Borokhovich (P.O. Box 35-1012).

28. Wildhorse Investments Ltd. (“**Wildhorse Investments**”) was a multi-tiered, layered Texas limited partnership. The following individuals, among others, were involved in Wildhorse Investments: (i) Dwyer; (ii) Lloyd; (iii) Todd Smith (“**Smith**”); (iv) Kadisson; (v) Nichols; (vi) Dennis E. Nixon (Chairman of IBC Bank) (“**Nixon**”); (vii) Jim Carpenter (“**Carpenter**”); (viii) Jonathon Nixon; (ix) Kristina Nixon; and (x) Kimberly Murphy.

29. William Hemphill (“**Hemphill**”) is a partner in the law firm of Kasling, Hemphill, Dolezal and Atwell, LLP and served as the attorney for Wolf, Borokhovich, and Zaretsky. Hemphill participated in many of the transactions during the relevant time periods detailed in this Complaint.

30. Zaretsky & Sons, LP was a limited partnership formed on or about September 19, 2005, by Oleg Zaretsky and his son Vitaly Zaretsky.

31. Zeltser Brothers are Aron Grinshpun, Sam Zeltser and Zelig Zeltser⁴. Each is a resident of New York. Records reflect Aron Grinshpun and Sam Zeltser are dual residents of New Jersey. They also own Three Star Capital, LLC, which still holds record title to the 67-acre tract in the Wildhorse Ranch.⁵

⁴ Independent Bank’s Experian credit report reflects five names associated with this same social security number: (i) Zelig Zeltser; (ii) Zelig Zeltzer; (iii) Zelig Allman; (iv) Zelmo Zeltser; and (v) Zelk Zeltser.

⁵ It should be noted that the 67-acre tract of Wildhorse Ranch remained untouched during all of the bankruptcy proceedings of J&T, J-Tail, and Waterfall Gallery.

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32. 12411 Jacobson Road, LP was an entity created on or about July 12, 2007, by Inga Kullberg (“**Kullberg**”) and Felix Elinson (“**Elinson**”) to purchase 170 acres in Manor, Texas, near New Sweden and to sell the tract to Zaretsky Family Partnership. Kullberg & Elinson were solicited by Zaretsky to advance funds to make this purchase. This is the same 170 acres on which NAT maintained that Minerva held a lien, though none was ever recorded or produced in the Travis County Real Property Records.